

City of Taylorsville
Planning Commission
Minutes
Tuesday – November 23, 2004 – 6:00 p.m.
2600 West Taylorsville Blvd., Council Chambers
Taylorsville, Utah 84118

Attendance:

Planning Commission

Angelo Calacino, Chairman
Aimee Newton
Dama Barbour
Kristie Overson
Ted Jensen
Phil Hallstrom
Blaine Smith

Excused: Joan Rushton-Carlson

Community Development Staff

Mark McGrath, Director
Michael Maloy, City Planner, Dist 2
Nick Norris, City Planner, Dist 1
Amber Westenskow, Intern
Jean Gallegos, Secretary/Recorder

Excused: Dan Udall

Public: None in attendance.

WELCOME: Commissioner Calacino called the meeting to order at 6:00 p.m.

GENERAL SESSION

CONDITIONAL USE AMENDMENT

1. 4C04CLC/Wal-Mart, 5469 S. Redwood Road - Amendment to Conditional Use Permit. (Mark McGrath)

[18:06:37](#)

1.1 Mr. McGrath presented the City Council proposed amendment to Condition Number 13, #4C04 as follows: "13. Traffic signal at 1500 West and 5400 South shall be installed and operational prior to store opening (i.e. conducting retail operations) ~~of any type of certificate of occupancy (temporary or final) is issued.~~ However, upon approval of the City Building Official, the applicant may be issued a temporary occupancy permit to install store fixtures and stock non-perishable goods only."

1.1.1 The Taylorsville City Council conducted a public hearing on November 17, 2004 to consider a letter of appeal from CLC Associates, which was filed in behalf of the Wal-Mart Corporation. The appeal requested relief from Condition Number 13 of the Planning Commission's final approval of CUP #4C04 as an "unreasonable requirement."

1.1.2 5400 South in Taylorsville is a State Road (SR 173); therefore, the intersection is controlled by the Utah Department of Transportation (UDOT). As such, it is the opinion of the applicant that Condition #13 is beyond their "influence or control" due to lengthy (and often unforeseen complications involving) UDOT permitting requirements.

1.1.3 During the November 17th hearing, the City Council suggested that Condition #13 be amended as described above. The proposed amendment clarifies the original intent of the Planning Commission, which is to have an "operational" signal at 1500 West and 5400 South prior to retail operations. The proposal also introduces a proviso that would allow Wal-Mart to complete operational improvements (i.e., installation of store fixtures, displays, non-perishable goods, etc.) prior to the issuance of a permanent occupancy permit.

1.1.4 **Staff recommends approval of the requested amendment to Condition Number 13 of Conditional Use Permit 4C04 (for construction of a new 208,075 square foot Wal-Mart Superstore to be located at 5469 S. Redwood Road) as stated below:**

"13. Traffic signal at 1500 West and 5400 South shall be installed and operational prior to store opening (i.e. conducting retail operations) ~~of any type of certificate of occupancy (temporary or final) is issued.~~ However, upon

approval of the City Building Official and the Community Development Director, the applicant may be issued a temporary occupancy permit to install store fixtures and stock non-perishable goods only."

1.2 **DISCUSSION:** Mr. McGrath presented [18:07:19](#), and said that Condition #13 in the form as previously approved by the Planning Commission, prevented Wal-Mart from opening the doors to install inside fixtures, etc., and stocking the store if the traffic signal is not fully operational. During the meeting, Wal-Mart asked for an amendment to the condition to allow them to stock the store. [18:08:17](#).

- Mr. Maloy advised that the recommendation in the staff report de-emphasized the connection between the traffic light and the occupancy permit and that a temporary permit to allow employees to stock the store was discussed. An occupancy permit would be required for stocking the shelves but not for installing fixtures.
- Commissioner Hallstrom commented that while he had not been involved in this discussion previously, [18:10:02](#), he wondered why Wal-Mart has not been required to produce a performance bond signed by a bonding company for a set amount. Commissioner Barbour advised that [18:11:00](#), it is not Wal-Mart's money being spent but the City's and secondly, it is a safety issue if the light is not functional when the traffic starts going in and out of there.
- [18:12:11](#), Commissioner Calacino said that the condition for approval now applies to the City instead of Wal-Mart in light of the fact that the City is paying for the signal and not Wal-Mart. Commissioner Jensen asked if the Commission could remove Condition #13 from Wal-Mart and pass the responsibility for that back to the City. Commissioner Barbour said there is still a safety issue and the Commission is still responsible there. Commissioner Newton advised that the City Council is okay with having #13 on there but wants to be able to grant a temporary permit so the store can be made ready.
- Commissioner Calacino asked staff if Wal-Mart is willing to withdraw their appeal if the condition is modified by the Planning Commission as proposed this evening or were they still going to take it back to the City Council? Mr. Maloy said he had not asked that question of Wal-Mart's representative. Mr. McGrath said he thought that Mr. Arrington made a statement along those lines. [18:14:55](#) Commissioner Jensen remembered Mr. Arrington saying he wanted to get a letter from UDOT saying they had approval to go ahead and put in the light and if he did get that approval, he would withdraw his appeal. Mr. McGrath advised that it is unknown if that letter has been accomplished yet. [18:15:12](#) Commissioner Barbour felt as if that letter should now be sent to the City and not Wal-Mart.
- Commissioner Jensen suggested modifying the wording to say that the traffic signal shall be installed by the City and be operational. The other Commissioners disagreed with this approach, saying that was not the Commission's concern, only safety of the citizens. [18:18:53](#)
- Mr. Maloy added that the Commission needs to know that there were and are a number of discussions being conducted between the City and CLC Associates representing Wal-Mart that don't involve City Staff. On the staff level, there is no certainty how the agreement is going to play out. It has been understood that the contractors who will be installing the signal and doing the grade changes at 1500 West and 5400 South will be subcontractors under the direction of Wadman Construction, who is building the new Wal-Mart structure. The City isn't going to hire another contractor to do that work under the City's direction but rather will probably transfer money. That is why it is probably incorrect to say the traffic signal is being installed by the City. [18:20:27](#)
- Commissioner Calacino mentioned that technically the City and Wal-Mart are partners in this now. He believed the only subject before the Commission this evening is whether or not the Commission is going to amend Condition #13. That would still meet the intent of the conditions of approval but give some latitude to allow Wal-Mart to at least get their store stocked and ready to open.

1.3 **SPEAKING:** None.

1.4 **MOTION:** [18:21:03](#) Commissioner Barbour - Mr. Chairman, I move that we accept and approve the revised #13 condition, which reads: "Traffic signal at 1500 West and 5400 South shall be installed and operational prior to store opening, i.e., conducting retail operations, however, upon approval of the City Building Official and the Community Development Director, the applicant may be issued a temporary occupancy permit to install store fixtures and stock non-perishable goods only."
SECOND: Commissioner Newton

VOTE: Commissioner Newton – AYE, Commissioner Barbour – AYE, Commissioner Overson – AYE, Commissioner Jensen – AYE, Commissioner Hallstrom – AYE and Commissioner Smith – AYE. Motion passes unanimously.

WORK SESSION

2. Update on Streetscape Plan for Redwood Road. (Mark McGrath)

2.1 **Mr. McGrath** advised that the Request for Proposal (RFP) had been issued two months previous to bring a traffic consultant and civil engineer in to work on this project. [18:22:42](#) This was the result of the last public meeting where there were opinions expressed that the plan focused on aesthetic issues and did not fully address transportation problems. UDOT will be doing an overlay project in the Fall and the City wants the plan in place before they begin working on the road. The City subsequently hired a regional firm and there have been two meetings held involving the original steering committee, the newly hired consultant team and affected property owners.

- **Commissioner Calacino** wanted to know when something on this project would be coming before the Commission, to which Mr. McGrath replied the first thing would be the revised landscape and lighting plans, then the transportation issues will be addressed. There is no specific time line for Planning Commission presentation yet. [18:26:15](#) This phase of the project involves the full intersection of 5400 South, south to the I-215 entrance. Adequacy of funding will need to be addressed and it looks like this project will need to be completed in more than one fiscal year.
- [18:33:24](#) **Commissioner Barbour** expressed concern over the east-west loop being included and she wanted to know exactly how much was budgeted this year for the project. **Mr. McGrath** responded that there was no exact figure but he thought it to be somewhere around \$1.9 million dollars. **Commissioner Barbour** wanted to know if the \$160,000 for the traffic signal at 1500 West was part of that amount and [18:36:30](#) questioned whether the landscaping for Wal-Mart along 5400 South was part of that package also. **Mr. McGrath** advised that he was not part of the funding process, so could not answer her question. Her other comment was that she wished Harmon's knew that type of funding was available before they did the site upgrade on their store at 5400 South and Redwood Road recently. [18:37:25](#)

3. Discussion Regarding Joint Planning Commission and City Council Meeting (Including Discussion of Present Rules of Procedures/By-laws of the Planning Commission). (Mark McGrath)

3.1 **Mr. McGrath** advised that the date for the joint Planning Commission/City Council meeting was postponed until Dec 15, 2004, in order to have David Church, Attorney for the Utah League of Cities and Towns, speak to the group. He suggested opening up the meeting tonight for discussion on the Rules and Procedures.

3.2 [18:44:48](#) **Commissioner Calacino** suggested that Commissioners and Staff review each page of the documents together and offer suggestions simultaneously. **Commissioner Hallstrom** said that he was under the impression that it would be a review of less depth than that just to make sure the Commissioners were aware of what the procedures were. **Commissioner Calacino** apologized for that misconception and verified that he did intend to go through it page by page tonight. **Commissioner Jensen** felt that this could not be accomplished in just one meeting and suggested doing it in segments. **Commissioner Calacino** suggested postponing this until the December 14, 2004 meeting to allow Commissioners to more thoroughly prepare for this review. **Commissioner Newton** felt that the Commissioners should start on this tonight and **Commissioner Calacino** opened the floor for discussion.

3.3 **Discussion:** Following are suggestions on how to proceed with this review:

- **Commissioner Jensen** [19:24:49](#) - Have Commissioners check the by-laws of other cities and do their own comparison.
- **Commissioner Barbour** [19:25:25](#) - Has been in front of many Planning Commissioners and City Councils and found that the procedures are the same here as they are in other municipalities.
- **Commissioner Newton** [19:26:23](#) - Agreed, saying she had been on the Commission for seven years and felt that a revision of the present rules/procedures would suffice.

- **Commissioner Smith** [19:26:32](#) had made a cursory review and was not in a position this evening to offer any definitive suggestions yet.
- **Commissioner Hallstrom** [19:27:08](#) said that obviously this set of rules had been taken from other cities. He had found that in the past it had covered all issues. It does not do a perfect job and while he felt the Commission could spend an inordinate amount of time trying to come up with a document that would cover every kind of situation, there was no reason to do so.
- **Commissioner Overson** [19:28:21](#) had not looked through the document until she received the memo from Councilman Pratt. She felt the document contains good information, is good reading and outlines what the Commission, is supposed to be doing. She noticed some inconsistencies but would rather clean up what we have rather than rewriting the whole thing.
- **Commissioner Calacino** [19:30:45](#) - What I am hearing is that not everyone is in the position to make any real suggestions for change tonight. Do we want to just bring this back up at our meeting in December and give everyone a little bit more time to do some comparisons. Otherwise I would recommend everyone read through the three sections and come back on December 14th with suggestions and we will move forward from that point on.
- **Commissioner Newton** [19:32:06](#) - I am concerned with the number of items scheduled for December 14th, which would not leave a lot of time for discussion on this. We do have time tonight and I feel we may as well proceed.

3.4 **Commissioner Calacino** opened the meeting for discussion on the update of the Planning Commission Rules and Procedures:

- **Comparison With Other Cities.** **Commissioner Jensen** [19:32:56](#) advised he had made a comparison between Taylorsville's and Sandy City's by-laws and found several significant differences (See table included at the end of these Minutes).
- **Mr. McGrath** [19:34:44](#) suggested simplifying the language to more reflect layman's terminology.
- **Chairman's Right to Vote on Decisions.**

Commissioner Hallstrom [19:40:03](#) did not agree that the Chairman should be a voting member, as was suggested because it would perceivably give them unreasonable power and authority. **Commissioner Calacino** felt that having the Chairman vote *last* would eliminate that perception. [19:41:02](#) **Commissioner Hallstrom** was in favor of leaving it as it is and having the Chairman vote only in the event of a tie vote. **Commissioner Barbour** [19:41:53](#) did not feel this should be an issue because the Chairman can easily direct the meeting to his will whether he votes or not. **Commissioner Jensen** and **Commissioner Overson** both felt the Chairman should be able to vote. [19:42:41](#) It was the consensus of the Commissioners that the Chairman has the right to vote and the Rules should reflect that. [19:46:10](#)

- **Consent Agenda.**

Commissioner Jensen asked for thoughts on having a consent agenda. [19:46:49](#) **Mr. McGrath** commented that Staff would be supportive of that but it was important that everyone be on the same page when implementing that. [19:47:08](#) **Commissioner Calacino** suggested that the Community Development Director and the Planning Commission Chair should decide what goes on the consent agenda. **Commissioner Overson** asked what would happen if a citizen wanted to speak about something that was placed on the consent agenda. She said she was interested in speeding up the meetings but not at the expense of limiting citizen input. **Commissioner Calacino** advised that the consent agenda is announced at the beginning of the meeting and if anyone indicates they wish to speak on an issue, it is moved to the regular meeting agenda. [19:50:04](#)

- **New Business**

Commissioner Jensen said there is an item under the order of business called New Business where no decision is made but an item can be introduced for future discussion. It is something that the City Council now uses so that a matter can be scheduled for a future meeting where no decision is made

and is actually different from Other Business. **Commissioner Calacino** felt that that could be scheduled under Other Business, where the Planning Commissioner calls the Chair and indicates they have an item they would like to put on the agenda. **Commissioner Jensen** advised that when that category is listed on the City Council agenda, it clearly states that it is for "no action". **Commissioner Calacino** stated that the wording "no action", could be added to items placed on the "Other Business" category.

- **Notice of Meeting**

Commissioner Overson [19:53:49](#) said she was unclear about the notification issue, in that the last sentence under Part IV, Consideration of Application, Page 2, Paragraph A 1, states: "Compliance with this subparagraph shall not be a condition precedent to proper legal notice and no hearing or action taken thereon shall be deemed invalid or illegal because of the failure to mail the notices provided for in this paragraph." She advised that in the past, citizens have commented that they were not noticed and the Planning Commission has said there should have been notification and have at times continued an item because notification was not made. **Mr. McGrath** commented that some of that type information should not be in the Planning Commission By-Laws but rather in ordinance form. That statement is not exactly consistent with what is presently contained in the ordinance and should be removed from the By-laws. **Mr. Maloy** [19:55:08](#) felt the intent of the language is saying that, if for some reason there was a technical error in getting a notice out and the Planning Commission holds a public hearing and no one from the audience claims insufficient notice that without a claim against the process, it is thereby a legal process. He felt Mr. McGrath was correct in that there is no point in having it in the By-Laws. Commissioners agreed that should be removed from the By-Laws.

- **Order of Business:** Page 2, Paragraph D.

Mr. McGrath said that paragraph needs to be cleaned up. **Commissioner Newton** suggested changing the title to read "The order of business "may be" instead of "shall be" would take care of that. **Commissioner Jensen** wanted "Special Items" changed to read "New Business". **Commissioner Calacino** said if that happens he would like to change "Other Business" to read "Public Comment" at the end of the agenda. **Commissioner Hallstrom** said that public comment before the Planning Commission usually refers to a specific item and is discussed along with that item on the agenda. **Commissioner Calacino** felt the intent is being met with the order of business, removing special items and consolidating all types of business and special items under "Other Business". Commissioners agreed and staff will implement.

- **Hearing Procedure:** Page 3, Paragraph B.

Commissioner Barbour [20:00:24](#) believes that it is important that there be either an applicant or their representative present. If the Commission is going to take time to review their application, the applicant or their agent ought to be present and if not, the item should be tabled. That should be something Staff lets them know about when taking in the application.

Commissioner Hallstrom [20:01:14](#), said the down side of that is if it is a controversial application and the applicant decides he doesn't want to address it at that point, all he has to do is stay away. It is a tactical move used by some developers to wear people down.

Commissioner Newton commented that affects home occupation applications that are no problems whatsoever and simply cannot attend on the night it is scheduled. It would seem to be a waste of everyone's time to automatically table that and rehearing it at the next meeting. If there are questions that can't be answered without addressing the applicant, that is another story.

Commissioner Calacino [20:02:33](#) said that as a Commission there is the intelligence and the awareness to look at an item beyond public clamor and whether or not the applicant is present, can make a decision. He preferred to move items along and not continue them if not absolutely necessary.

Mr. Maloy suggested using the by-laws to send a message that said failure to appear could be grounds for continuance. Their participation in the public process is important to Commissioners to protect their rights as well as assist the Commission in doing their job. **Commissioner Hallstrom** [20:04:07](#) said if someone were to come in and say the reason they missed the meeting was due to illness and subsequently found that their application was denied, it would probably be reheard by the Commission.

Commissioner Calacino said if they made a formal submittal to the Staff for reconsideration, it probably would be scheduled to rehearing with that valid reason.

Commissioner Jensen commented that under Roberts Rules of Order it indicates under Paragraph B, that witnesses speaking against and in favor should be alternated and not speak as groups. **Mr. McGrath** recommended that be consolidated to just say "public comment". People are very uncomfortable getting up and speaking against their neighbor when the statement prefacing that is "anybody opposed to this application". Sometimes all they want is to communicate a concern rather than opposition.

- **Rebuttals.** Page 3, Paragraph B 5.

Commissioner Newton asked about the rebuttal process. The referenced paragraph says that "Rebuttal shall not be allowed.", however, in the past, this Commission has allowed that. **Commissioner Calacino** suggested the sentence be changed to read: "Rebuttal may be allowed". **Commissioner Newton** asked if it would be possible to have the applicant address the Commission after the public comments have been taken. **Commissioner Barbour** said that usually the applicant is allowed to do a rebuttal after public comment in most cities. **Commissioner Calacino** said that this Commission gives them the option to do that here. The first time they address the Commission and audience, they are just presenting what they plan to do and have no idea what issues may arise during the subsequent public hearing. [20:07:12](#) Commissioners agreed with the change suggested by Mr. McGrath consolidated it into public comments and differentiate.

- **Decisions.**

- **Commissioner Jensen** commented that through all the planning courses he had been to, the decisions were considered final when the Minutes were approved. Mr. McGrath added that he understood Commissioner Jensen's concern in that staff sends out letters after the meetings informing applicants of decisions made. However, there are times when it is not possible for the minutes to be approved in a timely manner and that would greatly slow down the process for applicants. There is always the recording of the meeting that is accessible. **Commissioner Jensen** wanted a decision from the City Attorney as to when Planning Commission decisions are considered effective and the role the Minutes play in the process. **Mr. McGrath** will ask the City Attorney to explain the first sentence on Page 3, Para C (Decisions).

- **Commissioner Jensen** [20:13:02](#) added that he liked the verbiage of Page 3, Para C, last line, which says, "Such copy of decision shall include, insofar as practical, the reasons for the Commission decision." He felt that was very important and wanted to emphasize that should always be included in the motion. **Commissioner Calacino** said that technically staff includes that in the staff report and by the Commission approving "in accordance with staff recommendations", that complies unless the Commission has different findings to add thereto. He agreed that it was very essential to add the reasoning when denying a proposal. **Commissioner Jensen** still felt that additional comments should be added by the Commissioners because it erases all doubt as to why a certain decision was made. **Commissioner Newton** said that the Commissioners just need to make sure they specify that in their motion. She felt this should be added to the request for clarification being given to the City Attorney. [20:15:55](#)

- **Appeal Process for Planning Commission Decisions.** Page 4, Paragraph E. **Commissioner Jensen** advised that there is conflicting areas in the City Code on correct procedures for an appeal. In some places it says the appeal is to the City Council and in others it is to the Mayor. Some cities have the appeals go to a special board and other cities have the appeal made to the Board of Adjustment. He felt the Commission needs to be consistent. **Mr. Norris** felt this whole chapter needs to be rewritten to conform to the adopted code. **Mr. McGrath** suggested removing it entirely and relying solely on the City Code for the appeal process. **Commissioner Calacino** suggested deleting Paragraph E as now written and making the Amendments section Paragraph E now. Commissioners agreed.

3.5 **Commissioner Calacino** opened the meeting for discussion on the update of the Planning Commission By-Laws and Rules and Procedures:

- **Hearing Time Limits.** **Commissioner Overson** wondered if there was a need for time limits to be imposed on lengthy items. [20:20:55](#) Commissioners felt the Chairman should control that and that it didn't need

to be in the by-laws. Of similar interest was the possibility of imposing an ending time of 10:00 p.m. beyond which no items would be heard. Commissioners felt staff did a good job in scheduling on the agenda and wanted to accommodate the citizens as much as possible since the Commission only holds one regular meeting per month.

- **Temporary Chair.** Commissioner Jensen advised that other cities have “pro-tem” and that has always been the senior member of the commission who is not currently serving as the chair or vice chair. Commissioners decided to leave Page 6, Paragraph 5 as it is now with the temporary appointment being made by the chair, vice chair and/or community development director. [20:26:15](#) Commissioner Overson suggested then that Paragraph j on Page 6, does not apply. Commissioners agreed. [20:24:26](#)

- **Term Limits.** Commissioner Jensen brought up the subject of having four year terms instead of three year terms, as is the case in other cities. Commissioners decided to stay with the three year term limit. [20:48:18](#) Commissioners also decided to keep the terms of elected officers at one year. [20:49:19](#)

- **Field Trips.** Page 8, Paragraph 18. Commissioners felt citizens have a right to be present during field trips to sites throughout the City. The sentence which reads: “Only Planning Commission members and pertinent Community Development staff shall be allowed to attend the field trip”, shall be deleted.

- **Agenda for meetings.** Commissioner Jensen asked that Page 9, Paragraph 19 be changed to read that, “The Community Development Director and the Chairman Commissioners agreed. Also to be changed is the last sentence in Paragraph 19 to read four days instead of five days.

- **Agenda Deadline.** Page 9, Paragraph 20. Commissioners deleted.

- **Submission of Written Materials.** Page 9, Paragraph 22. Commissioners deleted.

- **Notification of Public Hearings.** Page 9, Paragraph 23. Commissioner Calacino asked if notifications are made within 10 days or 14 days. Mr. McGrath replied that the deadline is 14 days but felt this paragraph was not necessary in the by-laws. Commissioners deleted. [20:34:16](#)

- **Order of Consideration of Items.** Page 10, Paragraph e. Commissioner Jensen suggested this match the paragraph outlined in Rules of Procedure (Page 3, Paragraphs B 3 and 4). Commissioners agreed and felt this was worded better and should be used in place of that referenced on Page 3 above. [20:36:29](#)

- **Procedures – Debate.** Commissioner Jensen [20:37:26](#) suggested that an addition be made there so that if discussing a particular item that all Commissioners get a chance to speak on it before anyone speaks twice, which would prevent someone from dominating the conversation and give everyone the opportunity to speak first before anyone speaks a second time. Commissioner Calacino said that is covered by the sentence which says those wishing to speak must first address the Chair for permission. No change was indicated but the Chair agreed to do a better job of controlling this.

- **Abstention.** Page 12, Paragraph 38. Commissioner Overson [20:39:59](#) asked for a clarification on abstention votes. Commissioner Calacino said that, in his personal opinion, it indicates non-commitment. Commissioner Hallstrom suggested that abstention is allowable when to vote on an issue would be argumentative and create an undue irritation. Commissioner Calacino said that as a Commission, there will not always be agreement and everyone is entitled to their opinion. As long as the opinion is based on the facts presented and not emotions. Even with controversy, it should not be taken personally. Without presenting facts and opinions, it may cause a project to move forward without a good decision being made. The Commissioners cannot be afraid of voicing singular opinions because of being afraid of offending another Commissioner and the best results for the City must be the priority. Commissioner Jensen said that other cities only allow abstentions in cases of conflict of interest. Commissioner Calacino advised that if there is a conflict of interest, the Commissioner should excuse themselves from involvement in the discussion and the vote. Commissioners felt no change is necessary.

- **Amendment of Rules of Procedure.** Commissioner Overson asked for clarification on Page 12, Paragraph 41, as to whether the public shall have the opportunity to respond to this change in Rules proposed tonight. [20:55:37](#) Also on Page 12, Paragraph 40 about having an amendment filed after no less than fourteen days of written notice of the proposal to amend the Rules She said that indicates 14 days and in the Rules of Procedure it says 48 hours. Commissioner Calacino said that is another of the redundancies that staff has been asked to filter through. [20:58:34](#) It is impossible to have an application submitted on Monday and have it

ready to be heard two weeks later on the Planning Commission. **Mr. Norris** felt the intent was so that staff doesn't just sit on an application.

- **Voting.** Commissioners felt there was a need for a roll call vote only if the decision was not unanimous. [20:57:04](#)

- **Severability Clause.** [21:04:19](#) **Commissioner Jensen** felt there may be merit to including a severability clause so that if one part of the by-laws are proven to be unconstitutional, it doesn't invalidate the whole thing, which allows some flexibility. Commissioners felt that concept has merit and asked that the City Attorney look into that possibility.

- **Year End Meeting.** **Commissioner Jensen** [21:07:00](#) explained this was a meeting during which the Commission and Staff review the projects and events of the previous year in order to strategize the upcoming year's agenda. Commissioners liked this concept and said it fits well with their plan to be more proactive as a Commission in the future. [21:04:53](#) They also would like planning made to give them on-going training throughout the year to keep them up-to-date.

- **Commissioner Jensen reviewed the main differences between the Planning Commission Rules for Taylorsville with those of Sandy, Utah:** (Table attached to these Minutes)

TEXT CHANGES

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4. 4A03 **Ordinance 04-32 "Proposed Zoning Text Amendments Regulating Fencing.**
6A03 **Ordinance 04-33 "Proposed Zoning Text Amendments Regulating Accessory**
Structures" (Michael Maloy)
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4.1 **Mr. Maloy** advised that the City Council requested the Ordinance Review Committee (ORC) review two Planning Commission recommendations to amend Title 13, 4A03 (Proposed fence regulations within all zones of the City), and 6A03 (Proposed Accessory Structure Regulations Within all Residential and Agricultural Zones of the City.)

4.1.1 **4A03 (Fence Regulations) and 6A03 (Accessory Structures) (Discussion)**

- **Commissioner Newton** was supportive of the changes made by the ORC. [18:56:37](#) She liked most of the ordinance but asked that Staff review it for content. [19:02:09](#)
- **Commissioner Overson** also felt the ORC had done a good job with their review. [18:57:15](#)
- **Commissioner Hallstrom** expressed frustration that the Commission reviews these ordinances, makes an analysis, and then it just sits, with nothing further being done. He felt that if the ORC is going to review these ordinances, it should be done in conjunction with the Planning Commission review in order to speed up the process. [18:59:26](#)
- **Commissioner Smith** would like a 6' height requirement added for day care centers, except when located on corner lots. He was informed that requirement is already contained in the day care ordinance. [19:01:15](#)
- **Commissioner Jensen** (who is also on the ORC), advised that the ORC does not want to be involved with the Subdivision and Zoning Ordinances, however, were asked to do so in this case by the City Council. He felt the City Attorney should check on clear vision areas and determine what constitutes an obstruction, what structures mean, and who is liable and accountable. [19:04:09](#)
- **Commissioner Calacino** also expressed frustration with the process. He was in agreement with the changes the ORC made except for: (1) The suggestion about consulting with the City Attorney on specific issues mentioned by Commissioner Jensen previously. When you have a fence on a property line, it could have been put up 50 years ago and have had subsequent changes in property owners. If you have a fence line, it is shared and is mutual property and the maintenance responsibility is, therefore, shared. (2) Clarification of clear view, if it is going to be defined as proposed, the wording contained on Page 2, Para 13.40.160A should be moved as the definition of Clear Vision Area under Definitions. (3) Obstruction, could be defined more

clearly under Definitions also and suggested defining it as something measuring greater than a 3' x 3' square.

- **Commissioner Calacino** commented on the Accessory Building Ordinance in saying that even though there is not a requirement for a building permit for a structure under 200 square feet, it doesn't mean they are exempt from other regulations. It is difficult to police that but it is good to have in the ordinance for code enforcement issues. [19:08:47](#)
- **Commissioner Jensen** had a question on Concern #4 on 200 square foot buildings. With the 3' setback and 6' distance between buildings, what does this do to people in mobile home parks who would like to have an accessory building? Based on that it seems that would be a difficult task for them. [19:10:14](#) **Mr. Maloy** commented that mobile home parks don't have property lines, so what regulates them is fire code separation and on smaller lots being able to access their rear yards in the event of an emergency. [19:11:32](#).
- **Commissioner Newton** asked that since this isn't specifically changing the ordinance, will staff now go back and implement the suggestions the Commission has agreed upon and then bring it back for approval or just forward it on to the City Council? **Mr. McGrath** felt staff can be relied upon to make the changes and forward to the City Council.
- **Commissioner Calacino** suggested that when making text amendments, that staff take initiative and send it to the ORC for review, so that when it does go to the City Council, they will know that process has already been accomplished. **Commissioner Hallstrom** agreed with that allowing that it would necessarily slow down the process initially but not in the long run. **Mr. McGrath** commented that on significant amendments, the Planning Commission usually ends up seeing them three or four times anyway. He saw no problem with including the ORC in the preliminary stage of the process. He also asked Mr. Maloy if the City Attorney had made any substantive changes, to which Mr. Maloy replied there were none

4.2

MOTION: **Commissioner Newton** - [19:16:56](#) I move that we make the following recommendations to amend Title 13, Zoning as it pertains to the Fencing Ordinance (4A03) and Accessory Building Ordinances (6A03): The Planning Commission would like staff to look at changing the fencing ordinance to reflect the suggestions made by the Ordinance Review Committee [19:17:54](#). In regards to the Accessory Structures portion, staff is to make the minor changes in grammar. **Commissioner Jensen** - Do you want to include that the City Attorney makes the appropriate review? **Commissioner Newton** - Yes, include that in the motion.

SECOND: **Commissioner Smith**.

DISCUSSION: **Commissioner Calacino** asked for a clarification of the motion. **Commissioner Newton** - [19:18:46](#) On the Fencing portion, have staff look at those two pages and make any necessary changes. On the Accessory Structures portion, make the grammatical changes and address the 200 square foot size issue, how? **Commissioner Jensen** - All you would have to do is skip section 13.45.030, Permit required, relating to the 200 square feet permit requirement, to which Commissioner Newton agreed.

VOTE: **Commissioner Newton** - AYE, **Commissioner Barbour** - AYE, **Commissioner Overson** - AYE, **Commissioner Jensen** - AYE, **Commissioner Hallstrom** - AYE and **Commissioner Smith** - AYE. Motion passes unanimously.

DISCUSSION: **Commissioner Overson** asked if the Commissioners would be getting an official signed copy of these ordinances upon completion. [19:20:29](#). **Mr. McGrath** advised that staff will do a better job of updating the Commissioners through the codification service and orientation at the meetings. Whenever an ordinance is passed by the City Council, staff will make a hard copy for each Commissioner. This policy will be effective immediately. [19:21:52](#)

ADJOURNMENT: By motion of Commissioner Barbour, the meeting was adjourned at [21:13:50](#)

Respectfully submitted by:

Jean Gallegos, Secretary/Recorder
Planning Commission

Approved in meeting held on January 11, 2005.

Comparison Chart

Sandy City	Taylorsville	Comments
Terms are for four years	Terms are for three years	Felt length of terms was adequate.
Chairman votes	Chairman does not vote	Unanimous opinion was that the Chair should vote.
Each Commissioner speaks in order before an item is readdressed.	Commissioners speak on a subject whenever they want to.	Should be controlled by the Chairman.
Uses a Consent Agenda	Does not use a Consent Agenda.	Consent Agenda is a good idea and should be approved by the Community Development Director and the Planning Commission Chair in advance.
Assigns P.C. Member to attend Board of Adjustment meetings.	Does not make that assignment.	If an item is of interest to the Planning Commission, then a Commissioner will be asked to attend.
Has two regular meetings and one work session each month.	One regular meeting and one work session each month.	Commissioners suggested that if there is an exceptionally busy month for applications, to allow some to be moved to the work session as regular items.
Does not allow agenda items to proceed after 11:00 p.m.	No time limit.	Commissioners did not like the idea of stopping a meeting at a certain time where there were still people waiting for the hearing. Leave it as is.
Leave of Absence when running for public office.	No rule governing.	No opinions.
Severability Clause	No rule governing.	Staff to ask John Brems
Annual meeting held to review the previous year's work.	No rule governing.	Commissioners and Staff felt this was a good idea and were in favor of exploring the possibility.

General Review by Commissioners of present rules of procedures and by-laws, with comments:

Item	Comments
Entire document.	Felt it contained a lot of information and only needed a few corrections, i.e., City Hall address is wrong, as is the starting times for meetings.
Issue of Chairman voting.	Wanted the Chair to be allowed to vote. After discussion, it was the consensus of the Commission to permit the Chairman to vote.
Consent Agenda	Commissioners like the idea as long as the Community Development Director and the Planning Commission Chair made the decisions on what would be placed on it and that the Chair made sure that everyone who wished to speak to the issue would be allowed to do so.
Page 1 (Rules)	First paragraph – reference actual statute numbers.
Page 1 (Rules)	Under “Members”, change advise to read advice and add the appointment of one alternate to serve.
Page 2 (Rules)	Order of Business needs revision. Change first line to read “may” be instead of “shall” be. Generally needs to be cleaned up and have “field trips” added. Also possibly adding the heading “Public Comment” rather than Witnesses in favor or against.
Page 2 (Rules)	Para E-2. Delete entire paragraph.
Page 2 & 3 (Rules)	Para IV, A. 1. Delete sentence which begins, “Compliance with this subparagraph” all the way to the end.
Page 3 (Rules)	Paragraph B (Hearing Procedures) - #5 – Change “Rebuttal shall not be allowed”, to read “Rebuttal may be allowed.”
Item	Comments
Page 3 (Rules)	Paragraph C (Decisions) - Check with the City Attorney on when Planning Commission decisions become “final” – at the end of the meeting or when the Minutes are approved.
Page 3 (Rules)	Paragraph D (Reconsideration of applications) - Check with City Attorney on appropriateness of the content.
Page 4 (Rules)	Paragraph E (Appeal Process for Planning Commission Decisions) - Delete entire paragraph.
Page 4 (Rules)	Make the “Amendments” heading the new Paragraph E.
Page 5 (Bylaws)	Paragraph 2 – Rework the sentence, adding, Vice Chairman or Designee.
Page 6 (Bylaws)	Paragraph j - Delete.
Page 6 (Bylaws)	Paragraph 6 - Change “Secretary” to read “Administrative Assistant” in all references.
Page 7 (Bylaws)	Paragraph 7e - Change “five” days to read “four” days.
Page 8 (Bylaws)	Paragraph C, 17 - Delete. Addressed elsewhere.
Page 8 (Bylaws)	Paragraph C, 18. - Delete the second sentence which begins, “Only Planning Commission members The last sentence will be left in.
Page 9 (Bylaws)	Paragraph C, 19 - Change first sentence to read: The Community Development Director and the Chair The rest remains the same down to the last sentence, then change “five” to “four”.
Page 9 (Bylaws)	Paragraph C, 20 - Delete entire paragraph.
Page 9 (Bylaws)	Paragraph C, 22 – Delete entire paragraph.
Page 9 (Bylaws)	Paragraph C, 23 – Delete entire paragraph.
Page 9 (Bylaws)	Paragraph D – Procedure – Order and Decorum. Move to Rules, {Page 3 – Hearing Procedure) as a replacement. Commissioners felt it was better wording.
Page 10 (Bylaws)	Paragraph 25 - Rework the first sentence to add the Chair.
Page 11 (Bylaws)	Paragraph G, 36. - Rework in view of Chair being able to now vote.